

REMARKS

Reconsideration of the objections and rejections set forth in both the Notice of Non-Compliant Amendment dated September 29, 2006, and the Office Action dated March 15, 2006, is respectfully requested. In the Office Action, the Examiner rejected claims 30-34. Applicants have canceled claims 30-34 without prejudice and have added new claims 35-40. Accordingly, claims 35-40 are pending in the application. No new matter has been added by these amendments as can be confirmed by the Examiner.

A. The Present Response Includes a Complete Listing of All Claims.

Applicants inadvertently omitted the second page of the Amendment and Response, filed August 15, 2006, resulting in an incomplete claim listing. Applicants appreciate the Examiner's carefully review of the Amendment and Response and hereby resubmit the prior Amendment and Response, in its entirety, such that a complete listing of all claims is presented.

B. The Prior Art Does Not Disclose or Suggest an Information Transmitting Apparatus that is Arranged and Constructed to Cyclically Transmit Blocks of Data Subdivided from the Designated Information Apparatus in a Predetermined Sequence When the Information Transmitting Apparatus Receives Another Request to Transmit the Designated Information from Another Information Receiving Apparatus Prior to Transmitting All Blocks of Data Subdivided from the Designated Information as Set Forth in the Pending Claims.

In the Office Action, the Examiner rejected claim 29 (presumably claim 30) under 35 U.S.C. § 103(a) as allegedly being obvious by Applicants' admitted prior art in view of Harrington et al., United States Patent No. 6,289,012, in further view of Yosef et al., United States Patent Publication No. 2005/0259682. Applicants respectfully submit, however that, by failing to disclose each and every element of new independent claims 35 and 38, neither Applicants' admitted prior art, Harrington et al., nor Yosef et al. anticipates or renders obvious new claims 35 and 38. In contrast to the apparatus

recited in new claims 35-40, none of the cited prior art references, either individually or in combination, disclose or suggest an apparatus with an information transmitting apparatus is "arranged and constructed to cyclically transmit the blocks of data subdivided from the designated information apparatus in a predetermined sequence, when the information transmitting apparatus receives another request to transmit the designated information from another information receiving apparatus prior to transmitting all blocks of data subdivided from the designated information." Accordingly, claims 35 and 38, as well as new claims 36-37 and 39-40 that respectively depend from claims 35 and 38, are in condition for allowance.

In the Office Action, the claim rejection referenced Applicants' admitted prior art as illustrated in Fig. 5 of Applicants' application. According to Fig. 5, blocks X1 through X4 are transmitted at the time t1 and are also transmitted at the time t2. See, e.g., Application at Fig. 5; p. 7, ¶ [0024], lines 1-3; p. 7, ¶ [0026], lines 1-4. As set forth in new independent claims 35 and 38, however, the claimed information transmitting apparatus is "arranged and constructed to cyclically transmit the blocks of data ... in a predetermined sequence." Therefore, when the information transmitting apparatus, as claimed in claims 35 and 38, receives a request to transmit designated information from a first information receiving apparatus, the information transmitting apparatus cyclically transmits the blocks of data subdivided from the designated information in accordance with the predetermined sequence.

For purposes of illustration, if the blocks of data comprise blocks X1 through X4 as shown in Fig. 1, for example, the claimed information transmitting apparatus can cyclically transmit the blocks of data in the following predetermined sequence: X1, X2, X3, X4. Upon receiving the request to transmit designated information from the first information receiving apparatus, the claimed information transmitting apparatus thus transmits the blocks of data subdivided from the designated information in accordance

with the predetermined sequence: X1, X2, X3, X4. When the information transmitting apparatus, as claimed, receives another request to transmit the designated information from a second information receiving apparatus during transmission of block X2 to the first information receiving apparatus, the information transmitting apparatus continues by cyclically transmitting blocks X3 and X4 to the first information receiving apparatus in accordance with the predetermined sequence and by cyclically transmitting blocks X3, X4, X1, and X2 to the second information receiving apparatus in accordance with the predetermined sequence. Likewise, if the information transmitting apparatus receives still another request to transmit the designated information from the claimed another information receiving apparatus during cyclical transmission of block X4 to the second information receiving apparatus, the information transmitting apparatus continues by cyclically transmitting blocks X1 and X2 to the second information receiving apparatus in accordance with the predetermined sequence and by cyclically transmitting blocks X1, X2, X3, and X4 to the another information receiving apparatus in accordance with the predetermined sequence.

Therefore, as set forth in new independent claims 35 and 38, the information transmitting apparatus cyclically transmits the blocks of data subdivided from the designated information to each claimed information receiving apparatus in accordance with the predetermined sequence in response to each request to transmit the designated information. Claims 35 and 38 thus recite a manner by which the claimed information completes the transmission of the blocks of data to the first information receiving apparatus in the event that another request is received from another information receiving apparatus during the transmission of the blocks of data to the first information receiving apparatus. This manner of completing the transmission of the blocks of data is not taught by any of the cited prior art references, either individually or in combination, and we understand that claims reciting this manner of completing the

transmission of the blocks of data were suggested to be allowable during the prosecution of the corresponding Japanese application.

At least one recited element of new claims 35 and 38 therefore is totally missing from the cited prior art references. In accordance with M.P.E.P. § 2131, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). The disclosure of a claim element in a prior art reference, when relied upon to negate patentability, must also be clear and unambiguous. Further, “[t]he identical invention must be shown in as complete detail as contained in the...claim.” *Richardson v. Suzuki Motor Corp.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Furthermore, and uniquely important in this case is the requirement that the elements relied on in the prior art reference must be arranged as required by the claim. See *In re Bonds*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990).

Accordingly, since the cited prior art references fail to disclose each and every element of independent claims 35 and 38, claims 35 and 38 are not anticipated. Applicants therefore submit that new claims 35-40 are in condition for allowance.

C. No Motivation Exists to Modify the Teachings of Prior Art in a Manner that Precludes the Patentability of the Pending Claims 35-40 Under 35 U.S.C. § 103(a).

In accordance with M.P.E.P. § 2142, the Examiner bears the initial burden of establishing a *prima facie* case of obviousness. “To establish a *prima facie* case of obviousness, three basic criteria must be met.” (M.P.E.P. § 2143.) First, some suggestion or motivation in the prior art references or in the knowledge of one of ordinary skill in the relevant art must exist to modify or combine the references. Second, if the references are combined, a reasonable expectation of success must be

shown. Then, finally, all of the claim limitations must be taught or suggested by one reference or a combination of references. To establish a *prima facie* case of obviousness based on a single reference that does not teach all the elements of a claim, the Examiner must provide a rationale for modifying the teachings of the reference. See *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000), citing, *B.F. Goodrich Co. v. Aircraft Breaking Sys. Corp.*, 72 F.3d 1577, 1582, 37 U.S.P.Q.2d 1314, 1318 (Fed. Cir. 1996).


As discussed above, at least one recited element of new claims 35 and 38 is totally missing from the cited prior art references. The Examiner therefore has not established a *prima facie* case under 35 U.S.C. § 103 because, as shown above, all of the elements of the pending claim are not found in the cited references. According, it is submitted that the cited prior art does not anticipate or render obvious new independent claims 35 and 38. Applicants therefore submit that claims 35-40 are in condition for allowance.

For at least the reasons set forth above, it is submitted that new claims 35-40 are in condition for allowance. A Notice of Allowance is earnestly solicited. The Examiner is encouraged to contact the undersigned at (949) 567-6700 if there is any way to expedite the prosecution of the present application.

Respectfully submitted,

Orrick, Herrington & Sutcliffe LLP

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By:   
Davin M. Stockwell  
Reg. No. 41,334  
Attorneys for Applicants

Orrick, Herrington & Sutcliffe LLP  
4 Park Plaza, Suite 1600  
Irvine, California 92614-2558  
Telephone: (949) 567-6700  
Facsimile: (949) 567-6710